

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 16, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUNTER BOW O'MEALY,

Defendant.

No. 2:21-CR-00142-TOR-1

ORDER FOLLOWING DETENTION
HEARING

MOTION GRANTED
(ECF No. 33)

On November 10, 2021, the Court held a detention hearing for Defendant HUNTER BOW O'MEALY. Defendant appeared in custody represented by Attorney Mark Vovos. Assistant U.S. Attorney Richard Barker represented the United States. U.S. Probation Officer Patrick J. Dennis was also present.

The United States sought Defendant's detention, contending that if released, Defendant would present both a risk of flight and a danger to the safety of the community, **ECF No. 33**. Jon Wiseman, Special Agent, Drug Enforcement Administration, testified on behalf of the Government and was cross-examined. Exhibits were offered by the Government and were admitted by the Court over the objection of defense counsel. The Government and defense counsel presented argument and defense counsel proposed a release plan. The Court took the detention motion under advisement.

The Court has considered the Reports of Pretrial Services, the testimony and exhibits presented, Defendant's proposed release plan, and the arguments of counsel. The Court has taken into account the nature and circumstances of the offenses charged, the weight of the evidence against Defendant, as well as

1 Defendant's history and characteristics, including character, physical and mental
2 condition, family ties, employment, financial resources, length of residence in the
3 community, community ties, past conduct and history relating to alcohol and drug
4 abuse, and also criminal history, record concerning appearance at court
5 proceedings, whether Defendant was under supervision at the time of the alleged
6 offense, and the nature and seriousness of the danger to the community posed by
7 Defendant's release.

8 As an initial matter, the Court finds that a rebuttable presumption of
9 detention applies based on the nature of the charges against Defendant and the
10 Court notes that the United States has invoked the rebuttable presumption of
11 detention. *See* 18 U.S.C. § 3142(e)(2). Defendant offered evidence of his release
12 plan, young age, and lack of criminal history, among other evidence, to overcome
13 the presumption of detention. The Government offered the testimony of Special
14 Agent Wiseman and related exhibits in support of Defendant's detention. Because
15 Defendant has offered evidence in an effort to establish that he is not a flight risk
16 and that he is not a danger to the community if released, the Court considers the
17 presumption of detention merely as another element to be considered in
18 determining the ultimate question of whether any combination of release
19 conditions would reasonably ensure the safety of any other person in the
20 community and Defendant's appearance for trial.

21 During the detention hearing, the United States offered significant evidence,
22 to include visual evidence, that Defendant possessed and handled multiple firearms
23 in conjunction with the offenses charged in the Superseding Indictment. In
24 addition, the United States also offered evidence strongly suggesting that
25 Defendant was directly involved in a shooting in the Western District of
26 Washington related to the offenses charged in the Superseding Indictment and
27 stemming from a belief by Defendant that the shooting victim was cooperating
28 with law enforcement. The evidence presented involving Defendant's possession

1 and use of firearms to facilitate serious acts of violence is compelling, cannot be
2 ignored, and was not meaningfully rebutted. Additionally, the United States
3 offered evidence suggesting that Defendant and at least one co-Defendant were
4 concerned that other individuals may be cooperating with law enforcement.
5 Finally, the United States offered evidence that Defendant and at least one co-
6 Defendant, prior to their arrests, were seeking to acquire identification documents
7 under alternate identities in an effort to avoid law enforcement detection and to
8 facilitate flight from at least the Pacific Northwest if not the United States. While
9 Defendant cited his young age and lack of criminal history and offered a release
10 plan involving electronic monitoring and Defendant living at this parents'
11 residence in the Western District of Washington, such proposed release conditions
12 are insufficient to meet the standards for release noted above given the other
13 factors at issue in this case as also noted above.

14 Accordingly, the Court finds that the United States has established by a
15 preponderance of evidence that there is an absence of conditions or combination of
16 conditions that would reasonably assure this Defendant's presence at trial and that
17 the United States has established by clear and convincing evidence that no
18 condition or combination of conditions will reasonably assure the safety of other
19 persons or the community if Defendant is released.

20 **IT IS ORDERED:**

21 1. The United States' Motion for Detention, **ECF No. 33**, is
22 **GRANTED**. Defendant shall be held in detention pending disposition of this case
23 or until further order of the Court.

24 2. Defendant is committed to the custody of the U.S. Marshal for
25 confinement separate, to the extent practicable, from persons awaiting or serving
26 sentences or being held in custody pending appeal.

27 3. Defendant shall be afforded reasonable opportunity for private
28 consultation with counsel.

1 4. If a party desires this Court to reconsider conditions of release
2 because of material and newly discovered circumstances pursuant to 18 U.S.C.
3 § 3142(f), that party shall file a two-page motion for reconsideration succinctly
4 stating what circumstances are new, how they are established, and the requested
5 change in conditions of release. The motion shall indicate whether opposing
6 counsel or Pretrial Services object, whether a hearing is desired, and whether a
7 supplemental pretrial report is requested. This Court will treat the motion as
8 expedited and submitted without argument and will set a hearing or issue other
9 orders as may be appropriate.

10 5. If a party desires that another Court review this order pursuant to 18
11 U.S.C. § 3145, that party shall promptly file a motion for review before the district
12 judge to whom the case is assigned, as further described in the Detention Order
13 Review Protocol published for the Eastern District of Washington. Both parties
14 shall cooperate to ensure that the motion is promptly determined.

15 **IT IS SO ORDERED.**

16 DATED November 16, 2021.




JAMES A. GOETKE
UNITED STATES MAGISTRATE JUDGE